

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 1, 1997.

Harry Seraydarian,

Acting Regional Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5906–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete North Hollywood Dump Superfund Site, Shelby County, Tennessee, from the National Priorities List.

SUMMARY: The Environmental Protection Agency, Region 4 (EPA) announces its intent to delete the North Hollywood Dump (the Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which USEPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Tennessee Department of Environment and Conservation (TDEC) have determined that the Site poses no significant threat to public health or the environment and, therefore, further response measures

pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before November 10, 1997.

ADDRESSES: Comments may be mailed to: Robert P. Morris, North Site Management Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104.

Comprehensive information on this Site is available through the public docket which is available for viewing at the North Hollywood Dump information repositories at the following locations:

Memphis-Shelby County Public Library, 1850 Peabody Avenue, Memphis, Tennessee 38104.

U.S. EPA Record Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104.

FOR FURTHER INFORMATION CONTACT:

Robert P. Morris, North Site Management Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3104, (404) 562–8794 or 1–800–435–9233, ext. 28794.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency (EPA), Region 4 announces its intent to delete the North Hollywood Dump (the Site) in Memphis, Shelby County, Tennessee, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on its deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant action.

The EPA will accept comments on the proposal to delete this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III states the procedures that EPA is using for this action. Section IV discusses the North Hollywood Dump Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites or releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site or release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective public health and the environment.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 4 has recommended deletion and has prepared the relevant documents; (2) The Tennessee Department of Environment and Conservation has concurred with the deletion decision; (3) Concurrent with this Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate Federal, state, and local officials and other interested parties. This document announces a 30-day public comment period, provides an address and telephone number for submission of comments, and identifies the location of the local site repository; and (4) Region 4 has made all relevant documents available in the Regional Office and local site information repository.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

A. Background

The 70-acre North Hollywood Dump was used as a municipal dump from the 1930s until the City closed it in 1967. However, some dumping of non-chemical refuse probably continued until 1980.

B. History

In the late 1940s, the Hayden Chemical Company used the Site to dispose of wastes generated in the production of sodium hydrochloride. Hayden later was bought out by Velsicol Chemical Corporation, which continued the practice of dumping at the Site. At one time, pesticide-contaminated sludge from a closed sewer line leading to the Velsicol plant was removed and buried in a small area known as the "Endrin Pit." The Site was also used for the disposal of other industrial wastes from plants in the Memphis area. In the 1960s, Buckeye Cellulose in Memphis sent copper-contaminated material to the Site for disposal. In 1980, the EPA found pesticides and heavy metals in surface soil, groundwater and pond sediments on the Site. The Site contained pesticides in soils at levels of concern, for example, chlordane at 160 mg/kg (the action level used for chlordane was 100 mg/kg (ppm)). Due to high community concern in the early 1980s, the State of Tennessee recommended this Site as the State's highest priority hazardous waste site. Approximately 10,000 people live within three miles of the dump site. An elementary school is situated close to the dump.

The groundwater and surface water ponds were contaminated with pesticides including chlordane and endrin. The soil was contaminated with pesticides and heavy metals including lead, copper, and arsenic. Ingestion or

direct contact with contaminated groundwater or soil posed a potential public health threat. Ingestion of contaminated fish caught from surface water on the Site also posed a potential public health risk.

The Site was addressed in two stages: removal actions and a long-term remedial phase focused on the cleanup of the entire Site.

In 1980, the EPA took an emergency action to slow the movement of contaminants from the Site. Also, the EPA installed a chain-link fence around the Site and began a program to monitor on-site wastes. In 1981, a technical assistance group made up of representatives from the State, the City of Memphis, Shelby County, local industry, and the EPA, removed some of the chemical wastes from the surface of the Site.

On October 23, 1981, the Site was proposed for the National Priorities List (NPL). The EPA then assumed the lead role from TDEC to complete investigations into the extent and nature of contamination. The Site was placed on the NPL on September 8, 1983. The Potentially Responsible Parties (PRPs) took over the study April 1, 1984. After the completion of the Supplemental Remedial Investigation and Feasibility Study (RI/FS) on September 13, 1990, the Record of Decision (ROD) was finalized.

C. Characterization of Risk

At that time, the Site contained high levels of contaminants in soils (e.g., 52,400 ppb chlordane, 67,800 ppb heptachlor, 62.7 ppb DDT, et. al.) and sediments (e.g., 87 ppm chlordane, 56 ppm chlordane, 21 ppm heptachlor, 140 ppm lead, et. al.). The ROD required retrofitting the landfill to meet legal sanitation standards. This included: placement of a 2-foot clay cap, grading, and revegetation; drainage of an adjacent 40-acre pond known to have held contaminated sediments; installation of an approximate 3-foot cover over the contaminated sediments; and the removal of fish found to be contaminated, followed by restocking of the pond. Groundwater was to be monitored to ensure contamination levels remain within acceptable State alternative concentration levels (ACLs) which were set to be protective of surface water (e.g., 0.45 micrograms/liter (µg/L) endrin, 0.51 µg/L chlordane, 0.23 µg/L heptachlor, et. al.). Additionally, the fenced Site was to be expanded and maintained and, restrictions on future use of the Site were put into place. TDEC concurred with the selected remedy. On August 3, 1992, the PRP, the Hollywood Dump

Steering Committee (HDSC), entered into a Consent Decree with the EPA to perform remedy design and cleanup activities at the Site. The Remedy Design (RD) was completed September 27, 1993, by the PRP's primary consultant, the Memphis Environmental Center (MEC). The PRP's Remedial Action Construction Contract was awarded to MEC on January 17, 1994. MEC began cleanup activities in early 1994. The capping and grading of the landfill and the drum removal was completed by MEC in 1995. Drainage and covering of sediments began in 1995 and were completed by MEC in December 1996.

D. Operation and Maintenance

Operation and Maintenance (O&M), including the monitoring program, is in place. The monitoring program is specific to the groundwater medium. As

stipulated in the ROD and the Consent Decree, contaminant levels in groundwater are not to exceed ACLs. The contingency alternative for groundwater exceeding ACLs is that it will be pumped from the shallow aquifer and discharged into the municipal sewer system. To date, contaminant levels in groundwater have not exceeded ACLs. Cleanup activities at the site are now complete.

Confirmational monitoring of groundwater demonstrate that no significant risk to public health or the environment is posed by materials remaining at the Site. The EPA and TDEC concur that conditions at the Site pose no unacceptable risks to human health or the environment.

E. Five-Year Review

No hazardous substances remain uncontained or exposed at the Site

above health-based levels. However, the Site is not available for unlimited use or unrestricted exposure. The first policy five-year review for this site shall be completed by January 17, 1999.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if the responsible parties or other parties have implemented all appropriate response actions required. The EPA, with the concurrence of TDEC, contends this criterion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the public docket.

Dated: September 30, 1997.

A. Stanley Meiburg,

*Deputy Regional Administrator, USEPA,
Region 4.*

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